

CALIFORNIA COASTAL COMMISSION

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Th18b

May 22, 2003

TO: Commissioners and Interested Persons

FROM: Charles Lester, Deputy District Director
Diane Landry, District Manager
Mike Watson, Coastal Planner

SUBJECT: **CITY OF PISMO BEACH: LOCAL COASTAL PROGRAM MAJOR AMENDMENT NO. 1-03.** For public hearing and Commission action at its meeting of June 12, 2003, to be held in the City of Long Beach at the Queen Mary, 1126 Queens Highway, Long Beach, CA 90802.

I. SUMMARY OF STAFF REPORT**Amendment Description**

The City of Pismo Beach proposes to eliminate the Residential Serving and Mixed Residential land use designations in the Downtown Core Planning Area K. The City proposes to designate the former Mixed Residential and Residential Serving areas to Mixed Use and expand the list of principally permitted uses for this designation to include visitor lodging, retail, restaurants, and service uses. Please see Exhibit 2. The amendment will further eliminate the requirement for residential uses to be limited to one apartment per parcel in the Central Commercial district. Consistent with this change, the City proposes to amend land use plan policy LU-5 to encourage secondary residential uses on upper floors in the Central Commercial District. The submittal does not propose to amend the existing Open Space land use designation in the downtown core. In addition, the amendment will delete the requirement of a downtown specific plan, extend the potential for creation of a boardwalk past Main Street to the northern end of the planning area, and expand the public improvement opportunities beyond landscaping at the Addie Street parking lot.

The Downtown Core is generally bounded by Dolliver Street to the north, Highway 101 to the east, Pismo Creek to the south, and the Pacific Ocean to the west. Staff has reviewed the proposed amendment to the Land Use Plan for conformance with the Coastal Act. As discussed in detail below, staff recommends approval of the City of Pismo Beach LCP proposed Land Use Plan Major Amendment No. 1-03, if it is modified to omit from the amendment two shoreline parcels at the end of Addie Street. The City's proposed amendment to Mixed Use is inappropriate for this site, which lies on the beach at the mouth of Pismo Creek and is currently zoned Open Space recreation.

**California Coastal Commission**

The City's Land Use Plan was originally certified by the Commission on October 14, 1982. The zoning portion (Implementation Plan) was submitted in October 1983 and certified with suggested modifications on January 11, 1984. The City agreed to the modifications and assumed permit-issuing authority on April 13, 1984. A major update to the City of Pismo Beach's LUP was certified on November 24, 1992. The City has organized and submitted this LCP amendment request in accordance with the standards for amendments to certified LCPs (Coastal Act Section 30514, California Code of Regulations 13551 through 13553). The amendment was filed on March 17, 2003. The City Council held noticed public hearings. In addition, noticed public hearings at the Planning Commission level were held.

Further information on the submittal may be obtained from Mike Watson at the Central Coast District Office of the Coastal Commission at 725 Front Street, Suite 300, Santa Cruz, CA 95060, (831) 427-4863.

Standard of Review

The standard of review for land use plan amendments is that they must be consistent with the resource protection policies of the Coastal Act.

Staff Recommendation

Staff recommends that the Commission deny the Land Use Plan (LUP) as submitted, and approve the LUP only if modified as set forth below.

The primary purpose of the current proposal is to eliminate the Residential Serving Commercial and Mixed Residential land use designation of the Downtown Core and designate the entire area as Mixed Use to attract a greater variety of development and redevelopment of the City's Downtown area. Downtown Pismo Beach encompasses an area of land equal to approximately one square mile that has been divided into 5 different land use designations. The strict division of land uses has limited potential development and precluded full utilization of existing vacant properties.

The primary issue of concern involves designating two beachfront parcels as Mixed Use. Constraints on the sites make the intensive Mixed Use designation inappropriate. These parcels are located on sand dunes adjacent to Pismo Creek in an area of Commission-retained permit authority, thus, LCP land use designations, policies, and zoning requirements are advisory only. The Commission found substantial issue on an appeal of a proposed residentially related development for these parcels in September 2002. At that time, aside from the jurisdictional question, the Commission found that the project was inconsistent with the City's LCP policies for the conservation of Open Space, protection of riparian and dune scrub habitat, and was not consistent with policies limiting development on these sites to activities necessary for flood control purposes, bridges, or dams. The land that would be affected by the amendment contains habitat values that support sensitive plant species, which, because of their scarcity, may qualify as ESHA under Coastal Act Section 30240. The proposed amendment to the LUP does not provide adequate protection of these sensitive resources. Therefore, staff recommends denial of the amendment of the LUP as proposed,



and recommends approval of the amendment to the LUP only as modified to omit from the amendment said parcels. Based on the resources on the ground and the underlying zoning, an open space land use designation would be more appropriate.

Public Comment

City hearings on the amendment occurred on January 14, 2003 and February 18, 2003. These hearings on the LUP amendment elicited very few substantive comments. In addition, no written comments were received. After taking comments at its February 18, 2003 meeting, the Pismo Beach City Council approved Resolution 2003-10 amending the City's Local Coastal Land Use Plan changing the land use designation and supporting policies of the Downtown Core Planning Area.

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EXHIBITS

Exhibit 1: Location Map

Exhibit 2: Resolution, Existing and Proposed LUP Maps, LUP Text Amendments

Exhibit 3: 124 & 128 Addie Street Parcel Map

Exhibit 4: Aerial Photos



II. STAFF RECOMMENDATION: MOTIONS AND RESOLUTIONS

The Commission must make two separate motions in order to act on this recommendation:

A. DENIAL OF LAND USE PLAN MAJOR AMENDMENT No. 1-03, AS SUBMITTED

MOTION 1:

“I move that the Commission certify Major Amendment No. 1-03 to the City of Pismo Beach Land Use Plan as submitted by the City.”

STAFF RECOMMENDATION OF DENIAL

Staff recommends a “**NO**” vote. Failure of this motion will result in denial of the land use plan amendment component as submitted and adoption of the following resolution and findings. The motion passes only upon an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION:

The Commission hereby denies certification of Major Amendment No. 1-03 to the land use plan of the City of Pismo Beach as submitted and adopts the findings set forth below on the grounds that the amendment component, as submitted, does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment would not comply with the requirements of the California Environmental Quality Act because there are feasible alternatives or mitigation measures which would substantially lessen any significant adverse impact which the land use plan amendment may have on the environment.

B. APPROVAL OF LAND USE PLAN MAJOR AMENDMENT No. 1-03, IF MODIFIED

MOTION 2:

“I move that the Commission certify Major Amendment No. 1-03 to the City of Pismo Beach Land Use Plan as submitted by the City, if modified as suggested by Modifications A1 and A2 in this staff report.”

STAFF RECOMMENDATION TO CERTIFY IF MODIFIED

Staff recommends a “**YES**” vote. Passage of this motion will result in certification of the amendment component with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of a majority of Commissioners present.

RESOLUTION:



The Commission hereby approves Major Amendment No. 1-03 to the land use plan of the City of Pismo Beach if modified according to suggested modifications and adopts the findings set forth below on grounds that the land use plan amendment with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts which the land use plan amendment may have on the environment..

III. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following changes to the proposed Local Coastal Program amendments, which are necessary to make the requisite findings. If the local government accepts the suggested modifications within six months of Commission action, by formal resolution of the City Council, the corresponding amendment portion will become effective upon Commission concurrence with the Executive Director finding that this has been properly accomplished.

A. Land Use Plan Modifications for Addie Street Parcels

Revise the City's proposed Land Use Plan amendment as follows:

1. Retain the LUP designation of the following beachfront parcels as Mixed Residential (i.e., do not change to Mixed Use):

124 and 128 Addie Street (APN 005-163-30 and 005-163-31) shown in Exhibit 3.

2. Modify the amended LUP map (Figure LU-15) for the Planning Area K (Downtown Core) to reflect a Mixed Use land use designation for the parcel shown in A1.

IV. RECOMMENDED FINDINGS

The Commission finds and declares the following for the proposed City of Pismo Beach Major Amendment No. 1-03 regarding the change in land use designation for the Downtown Core, Planning Area K:

A. Land Use Plan Amendment

1. Visitor-Serving Land Uses



a. Description and Background

The City of Pismo Beach is proposing to amend its Local Coastal Program Land Use Plan (LUP) to attract a greater variety of development and redevelopment of the City's downtown core. The proposed amendment (PSB-MAJ-1-03) to the Land Use Plan would allow a variety of development opportunities throughout the downtown core and tends to shift the emphasis from resident oriented commercial-retail-residential uses to visitor-serving type uses. As proposed and modified, the Mixed Use designation will allow visitor-serving, commercial, retail, restaurants, and residential uses. The current Mixed Residential land use designation allows for hotels, motel, condominiums, and residences, but precludes other types of uses such as retail, commercial, and even restaurants unless it is part of a hotel. The Resident Serving commercial designation provides for retail, business services, furniture shops, hardware stores, and even Mixed Use development, though its primary focus is the provision of services for local residents. Thus, the proposed amendment eliminates the preference that development be specifically oriented towards residential or Residential Serving and broadens the range of allowable development activity.

The City declares the LUP amendment is needed to spur revitalization of the downtown core. Current LUP downtown policies do not facilitate the wide variety of land uses that appear to be in demand on vacant properties. The City cites requests for visitor lodging, commercial, retail, restaurants, service uses, offices, and residential uses that could not be accommodated as the need to eliminate the current divisions of land uses in the approximately one square mile downtown area. The downtown area is an important visitor-serving center of the City. Beachside shops, hotels, restaurants, and boutiques line the streets. Pismo Beach State Park and Pismo Pier are located at the western edge of the district. There are eleven public access points to the wide sandy beach. The sandy beaches provide opportunities for surfing, swimming, walking, fishing, and clamming.

b. Standard of Review

The standard of review for land use plan amendments is the Coastal Act. Under the Act, land use plans are to indicate the kinds, locations, and intensities of uses that are allowable in various locations (PRC 30108.5). The substantive policies of Chapter 3 are the primary basis for making these determinations. In this case, the most relevant governing section of the Coastal Act is:

Section 30222. The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

c. Analysis and Conclusion

The general downtown area has potential for the expansion and development of a desirable visitor-serving area with an already established bevy of shops, hotel-motels, and other attractions (e.g., Pismo Beach State



Park and Pismo Pier). The attractiveness of the area to visitors and the residents of Pismo Beach may be enhanced by the introduction of additional visitor-serving commercial uses. The City proposes to amend the designated land use patterns of the downtown, which would encourage the development of additional visitor-serving facilities while not precluding residential uses. As noted above, the Coastal Act places a higher priority on visitor-serving uses over other type of uses such as, residential, general commercial, and industrial. Visitor-serving uses do not take priority over agriculture or coastal-dependent uses, but that is not a factor in this urban area. The current land use designations are primarily residentially related. Although, the current land use designation would allow some limited amount of visitor-serving type development such as a hotel or motel, re-designation of the land use and subsequent development gives clear priority to a broader range of visitor-serving commercial and recreational use over other more general commercial, and residential uses, consistent with Coastal Act policy 30222.

The proposed change in land use designation is therefore consistent with policy 30222 of the Coastal Act.

2. Environmentally Sensitive Habitat Areas (ESHA)

a. Description and Background

With the exception of two sandy beach parcels, the entire downtown area identified in the amendment description above can be characterized as urban infill without any environmentally sensitive habitat concerns. The beachfront parcels at the end of Addie Street, however, consist of sandy dunes on the alluvial fan of Pismo Creek. Addie Street dead ends at the Pacific Ocean and is hemmed in by Pismo Creek directly adjacent to the south. It is the southern most extent of the Downtown Core.

The identified parcels consist of approximately one-half acre of bare sand open space area at the confluence of Pismo Creek and the Pacific Ocean. The site is bounded by Addie Street to the north and Pismo Creek and the Pacific Ocean to the south and west. A single-family residence is located several parcels eastward of the site. Biological studies of the site prepared in the early 1990's identified the area as containing fragile dune plant communities, --fragile because of the constantly changing narrow strip of dunes between the beach and secondary dune formation. According to at least one study, there are four plant species with special listed status that occur in nearby locations within the dune plant community. Similarly, there are more than a dozen other rare or threatened species (e.g., bird, animal, reptile, fish, etc.) that utilize the terrestrial and aquatic environment found on or immediately adjacent to the project site. If the amendment to the LCP is certified, development could proceed that is inconsistent with and potentially harmful to the habitat values at this location.

b. Standard of Review

The standard of review for land use plan amendments is the Coastal Act. Under the Act, land use plans are to indicate the kinds, locations, and intensities of uses that are allowable in various locations (PRC 30108.5). The substantive policies of Chapter 3 are the primary basis for making these determinations. In this case, the most relevant governing section of the Coastal Act is:



30240: *(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The Coastal Act definition of environmentally-sensitive habitat is also relevant:

30107.5: *“Environmentally sensitive area” means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

c. Analysis and Conclusion

In evaluating a proposed land use change, the Commission must analyze the on-the-ground resources and planning context at the time of the proposed LCP amendment, to assure that the land use designations are consistent with the Coastal Act. As mentioned above, there are rare plant species of concern such as beach spectacle pod (*Dithyrea maritime*) and crisped monardella (*Monardella crispa*) within the dune complex on or near the parcels proposed for a change in land use designation. Although the area has been somewhat fragmented by the development of the Addie Street parking lot and the downtown area more generally, before this it was also likely once a functioning piece of the larger Pismo Dunes system.

Coastal dunes, of course, provide unique, sensitive habitat values. Throughout its history, the Commission has placed high priority on the protection and preservation of coastal dune systems. On the Central coast, the largest coastal dune systems include the Nipomo dunes, Asilomar Dunes, and the Monterey Dunes complex. One of the most critical functions of these dune systems is their role as habitat for unique flora and fauna that are specially adapted to the conditions and opportunities found in the dunes. Dune plants in particular play a special role by both stabilizing the dunes from the effects of wind erosion, and hosting rare fauna. However, as these natural dune systems have been reduced and fragmented over time, the risk of extinction has increased for several species. Thus, each new impact within these dunes system has and will continue to contribute to the cumulative decline of these species.

Typically, dune structures with sensitive species are defined and treated as environmentally sensitive habitat areas by the Commission, even when degraded, because of their ability to naturally restore/recover through normal ecosystem functions (wind, species movement, etc.). Coastal dunes present a rather harsh and difficult growing environment, where the wind keeps shifting the shape of the ground, rainfall rapidly percolates out of reach, and, lacking a distinct topsoil horizon, nutrients are quickly exhausted. Dune community plants may over a year or two use up the available moisture and nutrients at a particular site, and by means of wind-blown seed “move” to a neighboring area. In this simplified model, the original site remains a bare sand surface until life’s necessities again accumulate at the original site—thereby allowing recolonization and repeating of the cycle. Thus, the overall growing area (“habitat”) needed over the long



run is vastly larger than the area occupied by the plants at any one “snapshot” in time. This also explains why entire dune surfaces—not just the locations where the plants (and animals) are found in any one particular year—are typically considered ESHA.

In this case, the existing habitat on site comprises mainly fragile dunes invaded by exotic grasses and ice plant. The functioning habitat on site is bounded on two sides by urban growth, streets, and development (see Exhibit 4). Nevertheless, portions of the site contain fragile dune plant communities and the site adjoins the mouth of Pismo Creek that forms an estuary or lagoon at the beach. Together these terrestrial and aquatic environments are potential habitat for several species listed as rare or threatened. With respect to the LUP amendment, a change in the land use designation from Mixed Residential to a more intensive Mixed Use designation appears to be inappropriate given the current resources on the site. The Coastal Act requires that sensitive habitat be protected against any significant disruption of habitat values. Mixed Use development could include construction of single-family residences, restaurants, retail stores, commercial businesses, and other types of incompatible uses. Mixed Use development does not qualify as a resource dependent use. And finally, a Mixed Use land use designation is incompatible with the underlying Open Space zoning of the parcels and the adjacent beach and creek area. Thus, the Commission finds that modifications A1 and A2 are necessary to bring the LUP amendment into compliance with Coastal Act policy 30240. The modifications require the City *not* change the land use classification on the aforementioned beach parcels. Only as modified, shall the City of Pismo Beach LCP amendment PSB-MAJ-1-03 be found consistent with the Coastal Act. Given the site constraints, the City of Pismo Beach should consider submitting a future amendment to re-designate these oceanfront parcels to Open Space.

3. Visual Resources

Coastal Act 30251 requires the protection of visual resources. Similar to the ESHA finding above, the change in land use designation proposed by the City will have a limited visual impact on the vast majority of the downtown planning area --with the exception of the two parcels located at the end of Addie Street. All other beachfront parcels are already developed with single-family residences, hotel-motels, and/or other visitor-serving facilities. By contrast, the parcels located at the end of Addie Street are undeveloped sandy beach dunes directly across from the Addie Street beach access and parking lot. The more intensive Mixed Use development of these parcels will block previously unobstructed views of Pismo Creek and confluence of the creek and the Pacific Ocean. Additionally, development of this site will obstruct views to and along the creek and ocean from the City’s new public pedestrian path that provides a beach and bluff access experience from Grand Avenue in Grover Beach to the beachfront promenade in Pismo Beach. From the south, the path crosses Pismo Creek at the Cypress street bridge and turns west down Addie Street along the site of the proposed development. Currently, there are outstanding views of the mouth of Pismo Creek and the wildlife that lives and forages along the confluence of the Pacific. The proposed project will block views to and along the beach and Pismo Creek at this location.

The City’s proposal will re-designate the site to Mixed Use. The current land use designation is Mixed Residential, though the underlying zoning is Open Space. Based on the visual resources available on the site, a change to the more intensive Mixed Use would not be consistent with Coastal Act section 30251. A Mixed Use designation could lead to structural development of the site that is incompatible with character of the surroundings and that disrupts views to and along the ocean and scenic coastal areas. Thus, in terms



of the LUP amendment, a change in the land use designation from Mixed Residential to a Mixed Use designation appears to be inappropriate given the current site conditions. Therefore, the Commission finds that modifications A1 and A2 requiring the parcels *not* be re-designated is necessary to find the proposed land use plan amendment consistent with the Coastal Act policy 30251, protecting visual resources.

4. Hazards

Coastal Act section 30253(1) requires that all new development minimize risks to life and property in areas of high geologic, flood, and fire hazard. Subsection (2) requires new development to assure stability and structural integrity and neither create or contribute to erosion or require the construction of shoreline armoring. Most development that will result from the change in land use designation will not be subject to flooding hazards or wave attack. In large measure, the entire shoreline along the downtown planning area has been developed; some of it has been armored. Other areas have no armoring and it appears from aerial photos, that armoring will not be necessary at any time in the near future. However, the parcels at the end of Addie Street are at risk because of their relationship to Pismo Creek and the Pacific. The parcels are located within the 100-year floodplain and well within the reach of storm-driven surf from the Pacific Ocean. The parcels are inundated during winter storm events coinciding with high tides and heavy surf. Development at this site, in and of itself, contributes to additional flood hazards as it places the development in harms way during these events. Debris from up-stream may back up against the structures and pose a significant flood and safety hazard to persons and property, as well. Additionally, in order to accommodate any structural development of the site, it is likely that some form of shoreline armoring will be required, either during the initial construction of the primary structure or at some point in the near future when the structure becomes threatened.

As noted above, the proposed land use plan amendment is appropriate for the majority of the City's downtown core planning area. However, re-designating the Addie Street parcels (005-163-030 & 31) to the more intensive Mixed Use is not consistent with Coastal Act policies 30253 (1) and (2). Development precipitated by a change in land use designation, could lead to a more intensive use of the site that is subject to flooding and wave attack. As a result, the Commission finds that modifications A1 and A2 are necessary to bring the LUP amendment into compliance with Coastal Act policy 30253 (1) and (2). As modified, the City of Pismo Beach LCP amendment PSB-MAJ-1-03 shall be found consistent with Coastal Act Section 30253 (1) and (2).

5. Public Access

Section 30210 of the Coastal Act states that maximum public access and recreational opportunities shall be provided for all persons. In addition to the proposed land use designation changes, there are also two proposed changes to the general policies of the Downtown Core Planning Area specific plan that includes additional language to allow for expansion of the City's oceanfront boardwalk and public improvements to the Addie Street parking lot. Both allow for improvements to public access and recreational opportunities along the City's popular downtown beaches and are therefore consistent with the Coastal Act for the



provision of maximum public access.

B. California Environmental Quality Act (CEQA)

The Coastal Commission's review and development process for Local Coastal Programs and amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis on LCP amendments, although the Commission can and does utilize any environmental information that the local government has developed. In this case the City approved a Negative Declaration for the amendment finding that it did not generate any significant environmental impacts.

In contrast to the conclusions of the City's environmental analysis, this report has identified that the proposed amendment poses significant adverse impacts on the environment, by designating sensitive habitat areas as Mixed Use planning areas. Modifications have been suggested to address this issue and avoid adverse environmental impacts. Approval of the amendment, will not have significant environmental effects within the meaning of CEQA only if its is modified as suggested.

